



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2013–N138; 1112–0000–81440–F2]

Proposed Low-Effect Habitat Conservation Plan for the City of Santa Cruz Graham Hill Water Treatment Plant, Santa Cruz County, California

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the City of Santa Cruz (applicant) for a 30-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize take of the federally endangered Mount Hermon June beetle (*Polyphylla barbata*) and the federally endangered Zayante band winged grasshopper (*Trimerotropis infantilis*), and will address associated impacts and conservation measures for the federally endangered Ben Lomond spineflower (*Chorizanthe pungens* var. *hartwegiana*), incidental to otherwise lawful activities associated with the operation and maintenance of the existing Graham Hill Water Treatment

Plant, construction of new facilities, which have the potential for minor temporary and long-term impacts to Mount Hermon June beetle habitat within Santa Cruz County, California, and restoration activities at the mitigation site.

The Service's proposed action is the issuance of a permit to the City of Santa Cruz for a low-effect habitat conservation plan (HCP) for incidental take of Mount Hermon June beetle and Zayante band-winged grasshopper. Associated impacts and conservation measures for Ben Lomond spineflower would also be included in the HCP. We are requesting comments on the applicant's permit application and on our preliminary determination that the proposed HCP qualifies as a low-effect HCP, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the Environmental Action Statement (EAS) and the associated low-effect screening form, which are available for public review, along with the draft HCP.

DATES: Written comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may download a copy of the HCP, draft Environmental Action Statement, Low-Effect Screening Form, and related documents on the Internet at <http://www.fws.gov/ventura>, or you may request documents by U.S. mail or phone (see below). Please address written comments to Diane K. Noda, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Comments may also be sent by facsimile to (805) 644-3958.

FOR FURTHER INFORMATION CONTACT: Lena Chang, Fish and Wildlife Biologist, at the above address or by calling (805) 644-1766.

SUPPLEMENTARY INFORMATION:

Background

The Mount Hermon June beetle and Zayante band-winged grasshopper were listed by the U.S. Fish and Wildlife Service as endangered on January 1, 1997. The Ben Lomond spineflower was federally listed as endangered on February 4, 1994. Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the “take” of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. “Incidental Take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are, respectively, in the Code of Federal Regulations at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species.

However, take of listed plants is not prohibited under the Act unless such take would violate State law. As such, take of plants cannot be authorized under an incidental take permit. Plant species may be included on a permit in recognition of the conservation benefits provided them under a habitat conservation plan. Impacts to Ben Lomond spineflower as a result of

restoration and management activities and associated conservation measures at the mitigation site would be addressed in the HCP and the permit. All species included in the incidental take permit would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)). In addition to meeting other criteria, actions undertaken through implementation of the HCP must not jeopardize the continued existence of federally listed plant or animal species.

The City of Santa Cruz Water Department is a municipal utility. Santa Cruz is located on the central coast of California, where the San Lorenzo River flows into Monterey Bay at the northern end of the state’s Central Coast hydrologic region. The applicant provides water service to an area approximately 30 square miles in size, including the entire city of Santa Cruz, adjoining unincorporated areas of Santa Cruz County, a small part of the city of Capitola, and coastal agricultural lands north of Santa Cruz. As part of the applicant’s water system, the applicant operates the Graham Hill Water Treatment Plant. The Graham Hill Water Treatment Plant site contains habitat characteristics of the Zayante Sandhills that support the Mount Hermon June beetle.

The HCP emphasizes protection of habitat through impact avoidance and use of conservation measures designed to avoid or minimize impacts to Mount Hermon June beetle. The applicant will supplement these conservation measures, or avoidance and minimization measures, with habitat restoration and enhancement measures, and other mitigation. Activities to be addressed under the HCP include the installation, use, maintenance, and repair of the applicant’s existing Graham Hill Water Treatment Plant, typical expansions to the facility, and restoration activities at the mitigation site.

The proposed HCP would authorize impacts to the Mount Hermon June beetle associated with the applicant’s activities at the Graham Hill Water Treatment Plant, potential future impacts

to Zayante band-winged grasshopper at the mitigation site should it occupy the site after restoration activities are completed, and impacts to Ben Lomond spineflower at the mitigation site as a result of restoration and management activities. Potential impacts to Mount Hermon June beetle would come from the daily operations and maintenance of the existing facilities and new construction. These activities would include, but not be limited to: inspection and monitoring of the facilities; mulching around ponderosa pines; landscape management; weed management; native planting; maintenance of vehicle access through grading of access roads, parking areas, or staging areas for future construction; facility maintenance; pipeline repair; and construction of new facilities. Specific details regarding these activities may be found in the HCP. Up to 5.7 acres of Mount Hermon June beetle habitat may be lost through implementation of the HCP over 30 years.

The applicant proposes to implement general and specific conservation measures designed to avoid or minimize take of Mount Hermon June beetle and Zayante band-winged grasshopper, and associated impacts to Ben Lomond spineflower. To mitigate temporary impacts, the City will compensate for any future impacts by permanently protecting Sandhills habitat occupied by the Mount Hermon June beetle at the Bonny Doon property. To ensure mitigation in advance for impacts related to City activities covered by the HCP, as a primary strategy, the City will protect 17 acres at the Bonny Doon property in perpetuity. Of the 17 acres to be protected and managed in perpetuity, 5.7 acres will be credited towards the HCP, while the remaining 11.3 acres may be used by the City to mitigate for impacts of future projects. As a secondary strategy, the City may purchase conservation credits at the Zayante Sandhills Conservation Bank. The City will also revegetate any area of temporary habitat loss on Zayante

sandy soils at the water treatment facility with plants native to the Zayante Sandhills. Specific details regarding this mitigation measure can be found in the HCP.

Two alternatives to the proposed action are considered in the HCP. Under the No Action Alternative, no permit would be issued and the applicant would avoid take of Mount Hermon June beetle and Zayante band-winged grasshopper, and impacts to Ben Lomond spineflower; however, avoidance of impacts would not be possible for some of the applicant's activities, precluding some critical projects from being completed. Under the Project-by-Project Alternative, take of Mount Hermon June beetle, Zayante band-winged grasshopper, and impacts to Ben Lomond spineflower would be addressed either through section 7 or 10 of the Act on a project-by-project basis. The proposed HCP provides more comprehensive conservation of Mount Hermon June beetle, Zayante band-winged grasshopper, and Ben Lomond spineflower, than either of the two alternatives. In addition, the proposed HCP provides the applicant with long-term predictability concerning the nature of its operations for which incidental take is permitted, avoiding potential facility-compromising delays.

We are requesting comments on our preliminary determination that the applicant's proposal will have minor or negligible effects on the Mount Hermon June beetle, Zayante band-winged grasshopper, and Ben Lomond spineflower; and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (Service 1996). We base our determinations on three criteria: (1) implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in

cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an incidental take permit qualify for categorical exclusions under the NEPA (42 U.S.C. 4321 *et seq.*), as provided by the Department of Interior Manual (516 DM 2 Appendix 2 and 516 DM 8); however, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

Next Steps

We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a) of the Act. We will also evaluate whether issuance of the incidental take permit would comply with section 7 of the Act by conducting an intra-Service section 7 consultation for the plan.

Public Review

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicant's proposal will have a minor or negligible effect on the Mount Hermon June beetle, Zayante band-winged grasshopper, and Ben Lomond spineflower, and that the plan qualifies as a "low-effect" HCP as defined by our 1996 Habitat Conservation Planning Handbook. We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a) of the Act. We will also evaluate whether issuance of the section 10(a)(1)(B) permit would comply with section 7 of the Act by conducting intra-Service section 7 consultation for the plan. We will use

the results of these consultations, in combination with the above findings, in our final analysis to determine whether or not to issue the permits. If the requirements are met, we will issue a permit to the applicant for the incidental take of Mount Hermon June beetle and Zayante band-winged grasshopper. We will make the final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: June 10, 2013.

Diane K. Noda, Field Supervisor
Ventura Fish and Wildlife Office
Ventura, California

[FR Doc. 2013-14135 Filed 06/13/2013 at 8:45 am; Publication Date: 06/14/2013]